

Senator Gene Davis proposes the following substitute bill:

CONSUMER ALCOHOLIC BEVERAGE PURCHASING

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gene Davis

House Sponsor: Timothy D. Hawkes

LONG TITLE

General Description:

This bill amends provisions of the Alcoholic Beverage Control Act regarding consumer purchasing.

Highlighted Provisions:

This bill:

- defines terms;
- creates the Division of Consumer Purchasing (division) within the Department of Alcoholic Beverage Control;
- moves the wine subscription program under the administration of the division;
- requires the division to establish a consumer purchasing system;
- outlines the parameters of the consumer purchasing system; and
- grants the Alcoholic Beverage Control Commission rulemaking authority.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



26 **32B-2-701**, as enacted by Laws of Utah 2020, Chapter 178

27 **32B-2-702**, as enacted by Laws of Utah 2020, Chapter 178

28 **32B-2-703**, as enacted by Laws of Utah 2020, Chapter 178

29 ENACTS:

30 **32B-2-212**, Utah Code Annotated 1953

31 **32B-2-801**, Utah Code Annotated 1953

32 **32B-2-802**, Utah Code Annotated 1953

33 **32B-2-803**, Utah Code Annotated 1953

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35 *Be it enacted by the Legislature of the state of Utah:*

36 Section 1. Section **32B-2-212** is enacted to read:

37 **32B-2-212. Division of Consumer Purchasing.**

38 There is created with the department the Division of Consumer Purchasing to establish
39 and administer:

40 (1) the wine subscription program described in Part 7, Wine Subscription Program; and

41 (2) the consumer purchasing system described in Part 8, Consumer Purchasing System.

42 Section 2. Section **32B-2-701** is amended to read:

43 **32B-2-701. Definitions.**

44 As used in this part:

45 (1) "Division" means the Division of Consumer Purchasing created in Section

46 **32B-2-212.**

47 (2) "Subscriber" means an individual who subscribes to a wine subscription as
48 described in Subsection **32B-2-702**(2).

49 ~~[(2)]~~ (3) "Subscription program" means the wine subscription program established in
50 Section **32B-2-702.**

51 ~~[(3)]~~ (4) "Wine subscription" means an arrangement in which a customer pays a
52 recurring price at regular intervals for a product that involves the shipment or transportation of
53 wine.

54 ~~[(4)]~~ (5) "Wine subscription business" means a person that:

55 (a) sells or offers for sale a wine subscription; and

56 (b) contracts with the department to participate in the subscription program.

Section 3. Section **32B-2-702** is amended to read:

32B-2-702. Wine subscription program.

(1) The [department] division shall establish and administer a wine subscription program as described in this part.

(2) The subscription program shall permit an individual to subscribe to a wine subscription that a wine subscription business sells or offers for sale by:

(a) enrolling in the wine subscription program in a manner the [department] division prescribes;

(b) authorizing the [department] division to purchase the wine subscription in the individual's name;

(c) paying the [department] division, in a manner the [department] division prescribes:

(i) the price of the wine subscription;

(ii) in addition to any tax, the markup described in Subsection **32B-2-304(4)**; and

(iii) a fee the [department] division charges in accordance with Subsection **32B-2-703(1)**; and

(d) designating the state store or package agency at which the individual would prefer to collect the wine.

(3) The [department] division shall:

(a) designate by contract with a wine subscription business the department warehouse to which the wine subscription business ships or transports wine under the subscription program;

(b) deliver wine purchased through the subscription program to the appropriate state store or package agency; and

(c) notify a subscriber when wine purchased through the subscription program is ready for the subscriber to collect from the state store or package agency described in Subsection (3)(b).

Section 4. Section **32B-2-703** is amended to read:

32B-2-703. Fees -- Rulemaking.

(1) The [department] division may charge a fee as part of the subscription program:

(a) in accordance with Section **63J-1-504**; and

(b) to cover costs to the [department] division for administering the subscription

88 program.

89 (2) The commission may make rules in accordance with Title 63G, Chapter 3, Utah
90 Administrative Rulemaking Act, for the administration of this part, including rules designating
91 which package agencies may receive from the [department] division wines that are purchased
92 through the subscription program.

93 Section 5. Section **32B-2-801** is enacted to read:

94 **Part 8. Consumer Purchasing System**

95 **32B-2-801. Definitions.**

96 As used in this part:

97 (1) "Consumer purchasing system" means the consumer purchasing system established
98 in Section [32B-2-802](#).

99 (2) "Division" means the Division of Consumer Purchasing created in Section
100 [32B-2-212](#).

101 Section 6. Section **32B-2-802** is enacted to read:

102 **32B-2-802. Consumer purchasing system.**

103 (1) The division shall establish and administer a consumer purchasing system that:

104 (a) allows a person to:

105 (i) order an alcoholic product from an approved vendor through the division; and

106 (ii) pick up an alcoholic product ordered as described in Subsection (1)(a)(i) from a
107 state store or package agency; and

108 (b) requires a person ordering an alcoholic product as described in Subsection (1)(a) to,
109 at the time the order is made:

110 (i) designate a state store or package agency at which the person would prefer to collect
111 the alcoholic product; and

112 (ii) pay the division for the alcoholic product order in full, including:

113 (A) the cost of the alcoholic product; and

114 (B) in addition to any tax, the markup described in Section [32B-2-304](#).

115 (2) The division shall:

116 (a) ensure that an alcoholic product ordered through the consumer purchasing system is
117 shipped or transported to a department warehouse;

118 (b) deliver an alcoholic product ordered through the consumer purchasing system to the

119 appropriate state store or package agency;
120 (c) notify the person who ordered an alcoholic product through the consumer
121 purchasing system when the alcoholic product is ready for the person to collect; and
122 (d) administer the consumer purchasing system in a manner that:
123 (i) is efficient;
124 (ii) ensures timely delivery of alcoholic products; and
125 (iii) frequently updates a person who orders an alcoholic product through the consumer
126 purchasing system on the status of the order.
127 (3) The division may not require that a person order a specific quantity of an alcoholic
128 product that is:
129 (a) different than a quantity the vendor offers for sale; or
130 (b) larger than the smallest quantity the vendor offers for sale.
131 Section 7. Section **32B-2-803** is enacted to read:
132 **32B-2-803. Rulemaking.**
133 The commission may make rules in accordance with Title 63G, Chapter 3, Utah
134 Administrative Rulemaking Act, to carry out the provisions of this part.